

III. REMARKS

1. Applicant appreciates the Examiner's indication of the allowance of claims 8-26 and 31-37.

2. With respect to the rejection of claims 27-30 under 35 U.S.C. §103(a) over Turcotte in view of Gaskill (US 5,929,771) under 35 U.S.C. §103(a), Applicant once again submits that the legal motivation required for a *prima facie* obviousness rejection is not present. There is no reason why a person of skill in the art would look to a system that involves an infrared communication protocols when they are working with a text messaging system using the Short Message Service ("SMS") and neither reference provides any teaching from adapting or converting one protocol to the other.

In order to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a), there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. It is submitted that the legal motivation to combine reference teachings is not present because Turcotte is directed to the use of the SMS while Gaskill is directed to information "exchange" using an **infrared communication protocol**, which are clearly not related or the same. One of skill in the art would not be inspired, or "motivated" to implement the "technique of Gaskill" (information exchange using an infrared protocol) within the system of Turcotte (SMS services), as is suggested by the Examiner, unless there is some specific teaching or suggestion to do, which it is submitted, is not to be found in either reference.

Turcotte relates to sending messages using a digital control channel and, in particular, the Short Message Service. Gaskill,

on the other hand, is directed to the transfer of information between two devices capable of IR communication and ways to set up an IR communication session. (see e.g. Col. 9, line 47- Col. 11, line 35.) The IR protocol allows "files" to be transmitted to, and received by a nearby device. The "electronic business card" discussed in Gaskill is such a file to be sent using a file transfer protocol, and is not a text message as in Turcotte.

The IR protocol used in Gaskill to exchange information is not the same as SMS. In Gaskill, the devices need to be in close proximity to each other, and line of sight is required, for the exchange of information. (Col. 9, lines 26-29). The manual exchange of information in Gaskill requires that the two users of PCD's "aim" the respective IR transceivers at each other. (Col. 9, lines 59-62). A communication session will not be established in Gaskill if the two devices are not within line of sight of each other. (Col. 10, lines 45-47). The interchange of business card information in Gaskill is not the same as, and has no relationship to the calendar reservation of Turcotte, since SMS does not have the same prerequisites, requirements or protocols for information transfer, as does the infrared information transfer system of Gaskill.

There is no disclosure or suggestion in Gaskill related to using anything other than the IR protocol, let alone any suggestion combine the IR protocol into a text messaging transfer protocol, such as that used in Turcotte. One of skill in the art would not look to "implement" an infrared red communication file transfer system of Gaskill in a short messaging system of Turcotte, since the protocols and teachings are clearly diverse. Thus, the legal motivation required to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a) is clearly lacking.

Therefore, claims 27-30 should be allowable.

3. It is also once again submitted that Turcotte and Gaskill have been combined improperly. References may be combined under 35 U.S.C. §103(a) only if the references are "analogous art". Turcotte and Gaskill are not analogous art. A reference is analogous art if:

- 1) The reference is in the same field of endeavor as the applicant's, or
- 2) The reference is reasonably pertinent to the particular problem with which the applicant was concerned.

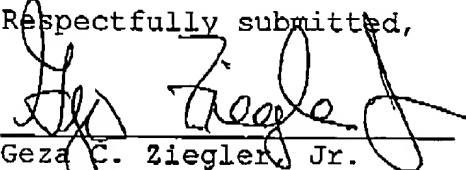
As noted above, Turcotte relates to text messaging using the Short Message Service. Gaskill relates to information transfer between two devices in close proximity and line of sight using an infrared communication protocol. As will be clearly recognized, the SMS protocol of Turcotte and the infrared protocol of Gaskill are quite different and relate to different systems. Thus, the two references cannot be properly combined for purposes of 35 U.S.C. §103(a) in this instance.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any other fees not included that are associated with this

communication or credit any over payment to Deposit Account No.
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Respectfully submitted,


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26 JAN 2006
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this After Final Response is being
transmitted by fax to (571) 273-8300 on the date indicated below.

Date: Jan. 26, 2006

Signature: Meaghan Baye

Meaghan Baye
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